

AN ORDER REGULATING AND RESTRICTING THE HEIGHT OF STRUCTURES AND OBJECTS OF NATURAL GROWTH, AND OTHERWISE REGULATING THE USE OF PROPERTY, IN THE VICINITY OF THE GILLESPIE COUNTY AIRPORT BY CREATING AIRPORT APPROACH ZONES, TRANSITION ZONES, HORIZONTAL ZONES AND CONICAL ZONES, AND ESTABLISHING THE BOUNDARIES THEREOF. PROVIDING FOR CHANGES IN THE RESTRICTIONS AND BOUNDARIES OF SUCH ZONES DEFINING CERTAIN TERMS USED HEREIN, REFERRING TO THE GILLESPIE COUNTY AIRPORT ZONING MAP WHICH IS INCORPORATED IN AND MADE A PART OF THIS ORDER, PROVIDING FOR ENFORCEMENT, ESTABLISHING A BOARD OF APPEALS AND IMPOSING PENALTIES.

This order is adopted pursuant to the authority conferred by Chapter 391, Acts of Regular Session, 50th Legislature, State of Texas, 1947, as Amended, and specifically by Article 46E-3, Revised Statutes of Texas.

It is hereby found that an airport hazard endangers the lives and property of users of Gillespie County Airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircrafts, thus tending to destroy or impair the utility of Gillespie County Airport and the public investment therein. Accordingly, it is declared: (1) that the creation or establishment of an airport hazard is a public nuisance and injury to the region served by Gillespie County Airport; (2) that it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of airport hazards be prevented; and (3) that the prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or interests in land.

BE IT ORDERED BY THE JOINT AIRPORT ZONING BOARD OF THE COUNTY OF GILLESPIE, TEXAS:

Section 1. Short Title. This order shall be known and may be cited as "Gillespie County Airport Zoning Order."

Section 2. Definitions. As used in this order, unless the context otherwise requires:

- (1) AIRPORT - means Gillespie County Airport.
- (2) AIRPORT ELEVATION - means the established elevation of the highest point on the usable landing area measured in feet from mean sea level.
- (3) AIRPORT HAZARD - means any structure, tree or use of land which obstructs the airspace required for or is otherwise hazardous to the flight of aircraft in landing or taking-off at the airport.
- (4) AIRPORT REFERENCE POINT - means the point established as the approximate geographic center of the airport landing area and so designated.
- (5) HEIGHT - For the purpose of determining the height limits in all zones set forth in this Order and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

- (6) JOINT AIRPORT ZONING BOARD - means a board consisting of Five (5) members, two members appointed by the Gillespie County Commissioners' Court, and two (2) members appointed by the City Commissioners', City of Fredericksburg, Texas, the four (4) members so appointed shall elect a fifth member, the chairman.
- (7) LANDING AREA - means the surface area of the Airport used for the landing, take-off or taxiing of aircraft.
- (8) NONCONFORMING USE - means any structure, tree, or use of land which is lawfully in existence at the time the regulation is prescribed in the order or an amendment thereto becomes effective and does not then meet the requirements of said regulation.
- (9) PERSON - means an individual, firm, partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.
- (10) RUNWAY - A defined area on an airport prepared for landing and take-off of aircraft along its length.
- (11) STRUCTURE - means an object constructed or installed by man, including, but not limited to, buildings, towers, smokestacks, and overhead transmission lines.
- (12) TREE - means any object of natural growth.
- (13) NONPRECISION INSTRUMENT RUNWAY - A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment for which a straight-in nonprecision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned or indicated on an FAA planning document or military service's military airport planning document.
- (14) PRIMARY SURFACE - A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface of a runway will be that width prescribed in Part 77 of the Federal Aviation Regulations (FAR) for the most precise approach existing or planned for either end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

The width of a primary surface is:

- (A) For other than utility runways the width is:
 - (1) 500 feet for nonprecision instrument runways having visibility minimums greater than three-fourths statute mile.

Section 3. Zones. In order to carry out the provisions of this Order, there are hereby created and established certain zones which include all of the land lying beneath the Approach Surfaces, Transition Surfaces, Horizontal Surface and Conical Surface. Such areas are shown on Gillespie County Airport Zoning Map consisting of one (1) sheet prepared by The Texas Aeronautics Commission and dated August 1, 1978, which is attached to this Order and made a part hereof. The various zones are hereby established and defined as follows:

(1) APPROACH ZONES

- (a) Runway 14/32 Approach zone is established beneath the approach surface at each end of runway 14/32 on Gillespie County Airport for nonprecision instrument landings and take-offs. The approach zone shall have a width of 500 feet at a distance of 200 feet beyond each end of the runway, widening thereafter uniformly to a width of 3,500 feet at a horizontal distance of 10,200 feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway.

- (2) TRANSITION ZONES - Transition zones are hereby established beneath the transition surface adjacent to each runway and approach surface as indicated on the zoning map. Transition surfaces, symmetrically located on either side of runways, have variable widths as shown on the zoning map. Transitional surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces.

- (3) HORIZONTAL ZONE - The area beneath a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs.

- (4) CONICAL ZONE - The area beneath the conical surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

Section 4. Height Limitations. Except as otherwise provided in this order, no structure or tree shall be erected, altered, allowed to grow, or maintained in any zone created by this Order to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

(1) APPROACH ZONES

- (a) Runway 14/32 One (1) foot in height for each thirty-four (34) feet in horizontal distance beginning at a point 200 feet from and at the elevation of the end of the runway and extending to a point 10,200 feet from the end of the runway.

(2) TRANSITION ZONES

- (a) Runway 14/32 One (1) foot in height for each seven (7) feet in horizontal distance beginning at any point 250 feet normal to and at the elevation of the centerline of the runway extending 200 feet beyond each end thereof, extending to a height of 150 feet above the airport elevation or a height of 1,844 feet above mean sea level. In addition to the foregoing, there are established height limits of one (1) foot vertical height for each seven (7) feet horizontal distance measured from the edge of the approach zone and extending upward and outward to the points where they intersect the horizontal surfaces.

- (3) HORIZONTAL ZONE - That area beneath the horizontal surface which is located one hundred fifty (150) feet above the airport elevation, or a height of 1,844 feet above mean seal level.
- (4) CONICAL ZONE - That area beneath the conical surface which is one (1) foot in height for each twenty (20) feet of horizontal distance beginning at the periphery of the horizontal surface extending to a height of 350 feet above the airport elevation.
- (5) EXCEPTED HEIGHT LIMITATIONS - Nothing in this Order shall be construed as prohibiting the growth, construction or maintenance of any tree or structure to a height up to 20 feet above the surface of the land.

Where an area is covered by more than one (1) height limitation, the more restrictive limitations shall prevail.

Section 5. Use Restrictions. Notwithstanding any other provisions of this Order, no use may be made of land within any zone established by this Order in such a manner as to create electrical interference with radio communication between the Airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the Airport, impair visibility in the vicinity of the Airport or otherwise endanger the landing, taking-off, or maneuvering of aircraft.

Section 6. Nonconforming Uses. (a) Regulations not Retroactive. The regulations prescribed by this order shall not be construed to require the removal, lowering, or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this Order, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Order, and is diligently prosecuted.

(b) Marking and Lighting. Notwithstanding the preceding provision of this Section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Gillespie County Commissioners' Court to indicate to the operators of aircraft in the vicinity of the Airport, the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of Gillespie County.

Section 7. Permits. (a) Future Uses. No material change shall be made in the use of land and no structure or tree shall be erected, altered, planted, or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted.

- (1) However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in any approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway except when such tree or structure, because of terrain, land, contour, or topographic features, would extend above the height limit prescribed for the respective zone.
- (2) Each application for a permit shall indicate the purpose for which the permit is desired with sufficient particulars to determine whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limits established by this Order except as set forth in Section 4., Par. (5).

(b) Existing Uses. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming use, structure, or tree to be made or become higher, or become a greater hazard to air navigation, than it was on the effective date of this Order or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(c) Nonconforming Uses Abandoned or Destroyed. Whenever the Commissioners' Court determines that a nonconforming structure or tree has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

(d) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use his property, not in accordance with the regulations prescribed in this Order, may apply to the Board of Adjustment for a variance from such regulations. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but will do substantial justice and be in accordance with the spirit of this Order.

(3) Hazard Marking and Lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Order and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to permit the Gillespie County at its own expense to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

Section 8. Enforcement. It shall be the duty of the Gillespie County Commissioners' Court to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Gillespie County Judge upon a form furnished by him. Applications, required by this Order to be submitted to the Commissioners' Court, shall be promptly considered and granted or denied. Applications for action by the Board of Adjustment shall be forthwith transmitted by the Gillespie County Judge.

Section 9. Board of Adjustment. (a) There is hereby created a Board of Adjustment to have and exercise the following powers: (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Commissioners' Court in the enforcement of this Order; (2) to hear and decide special exceptions to the terms of this Order upon which such Board of Adjustment under such regulations may be required to pass (3) to hear and decide specific variances.

(b) The Board of Adjustment shall consist of five members appointed by the Gillespie County Commissioners' Court and each shall serve for a term of two (2) years and removable for cause by the appointment authority upon written charges, after a public hearing.

(c) The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this Order. Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such times as the Board of Adjustment may determine. The Chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board of

Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Gillespie County Clerk and shall be a public record.

(d) The Board of Adjustment shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this Order.

(e) The concurring vote of four (4) members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the Commissioners' Court or to decide in favor of the application on any matter upon which it is required to pass under this Order, or to effect any variation in this Order.

Section 10. Appeals. (a) Any person aggrieved, or any taxpayer affected, by any decision of the Gillespie County Judge made in his administration of this Order, if of the opinion that a decision of the Commissioners' Court is an improper application of this regulations, may appeal to the Board of Adjustment.

(b) All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the Commissioners' Court a notice of appeal specifying the grounds thereof. The Gillespie County Judge shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(c) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Commissioners' Court certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the agency from which the appeal is taken and on due cause shown.

(d) The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(e) The Board of Adjustment may in conformity with the provisions of this Order, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination, as may be appropriate under the circumstances.

Section 11. Judicial Review. Any person aggrieved, or any taxpayer affected, by any decision of the Board of Adjustment, may appeal to the Court of Record as provided in Section 11 Chapter 391 of the Public Laws of Texas Specifically Article 46e-11, Revised Statutes of Texas.

Section 12. Penalties. Each violation of this Order or of any regulation order, or ruling promulgated hereunder shall constitute a misdemeanor and be punishable by a fine of not more than \$200.00 and each day a violation continues to exist shall constitute a separate offense.

Section 13. Conflicting Regulations. Where there exists a conflict between any of the regulations or limitations prescribed in this Order and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

Section 14. Severability. If any of the provisions of this Order or the application thereof to any person or circumstances is held invalid such invalidity shall not affect other provisions or applications of the Order which can be given effect without the invalid provision or application, and to this end the provisions of this Order are declared to be severable.

Section 15. Effective Date. WHEREAS, the immediate operation of the provisions of this Order is necessary for the preservation of the public health, public safety, and general welfare, an EMERGENCY is hereby declared to exist, and this Order shall be in full force and effect from and after its passage by the Airport Zoning Board and publication and posting as required by law. Adopted by the Gillespie County-Fredericksburg Joint Airport Zoning Board this 23rd day of March, 1979.

Jack L. Hughes
Jack L. Hughes, Chairman

Marvin Jander
Marvin Jander

X
Keith Keller
Keith Keller

W. J. Sebera, Sr.
W. J. Sebera, Sr.

Curtis Frisbie
Curtis Frisbie

I swear and affirm I witnessed the signature of Keith Keller by placing an X above his name.

Carroll J. Bryla
Carroll J. Bryla

THE STATE OF TEXAS
COUNTY OF GILLESPIE

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BEFORE ME, the Undersigned Authority on this day personally appeared Carroll J. Bryla, known to me to be the person who witnessed the above signature, and duly sworn by me, stated under oath that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 2nd day of April, 1979, A.D.

Ingrid Kruse
Ingrid Kruse, Notary Public in and for Gillespie County, Texas